

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

ANA MANZANARES,

Plaintiff,

v.

COMPASS GROUP USA, INC., et al.,

Defendants.

No. C 11-4389 PJH

ORDER TO SHOW CAUSE

TO DEFENDANTS COMPASS GROUP USA, INC, AND KAREN DOO:

YOU ARE HEREBY ORDERED TO SHOW CAUSE IN WRITING why the above-entitled action should not be remanded to the Superior Court of California, County of San Francisco.

Defendants removed this case on September 2, 2011, alleging diversity jurisdiction. Plaintiff Ana Manzanares a citizen of California; defendant Compass Group USA, Inc., is a citizen of both Delaware and North Carolina; and defendant Karen Doo ("Doo") is a citizen of California. Thus, on the face of the complaint, there is no complete diversity, and the court lacks subject matter jurisdiction.

Defendants assert, however, that Doo is a sham defendant, who was fraudulently joined. Defendants contend that the complaint fails to state a claim against Doo, as the sole cause of action alleged against her – intentional infliction of emotional distress – is inadequately pled. That is, defendants assert that plaintiff has failed to allege sufficient facts to state a claim.

Whether a claim is or is not supported by sufficient facts cannot be determined in a notice of removal. Such a determination requires full briefing in a Rule 12(b)(6) motion to

1 dismiss. However, based on the allegations in the complaint, the court would be inclined to
2 find that plaintiff has adequately stated a claim against Doo.

3 Accordingly, defendants shall submit a written statement, no later than October 13,
4 2011, explaining why the court should not remand this case.

5
6 **IT IS SO ORDERED.**

7 Dated: September 29, 2011



8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

PHYLLIS J. HAMILTON
United States District Judge